

## **STATE WATER CONTROL BOARD ENFORCEMENT ACTION**

### **A SPECIAL ORDER BY CONSENT ISSUED TO**

**The Town of Blackstone  
Permit Number VA0025194**

#### **SECTION A: Purpose**

This is a Consent Special Order issued under the authority of Va. Code §§ 10.1-1185 and 62.1-44.15(8a) and (8d), between the State Water Control Board and the Town of Blackstone for the purpose of resolving certain violations of environmental laws and regulations.

#### **SECTION B: Definitions**

Unless the context clearly indicates otherwise, the following words and terms have the meanings assigned to them below:

1.     **AVa. Code@** means the Code of Virginia (1950), as amended.
2.     **ABoard@** means the State Water Control Board, a permanent citizen board of the Commonwealth of Virginia as described in Va. Code §§ 10.1-1184 and 62.1-44.7.
3.     **ADepartment@** or “DEQ” means the Department of Environmental Quality, an agency of the Commonwealth of Virginia as described in Va. Code § 10.1-1183.
4.     **ADirector@** means the Director of the Department of Environmental Quality.
5.     “Order” means this document, also known as a Consent Special Order.
6.     “Blackstone” means the Town of Blackstone, located in Nottoway County, Virginia.

7. “Facility” means the Town of Blackstone wastewater treatment plant located in Blackstone, Virginia.
8. “PRO” means the Piedmont Regional Office of DEQ, located in Glen Allen, Virginia.
9. “SCRO” means the South Central Regional Office of DEQ, located in Lynchburg, Virginia.
10. “VPDES” means the Virginia Pollution Discharge Elimination System.
11. “Permit” means VPDES Permit number VA0025194, which became effective June 30, 1998, and expires June 30, 2003.
12. “NOV” means Notice of Violation.
13. “DMR” means Discharge Monitoring Report.

#### **SECTION C: Findings of Facts and Conclusions of Law**

1. Blackstone owns and operates a wastewater treatment plant in Nottoway County, Virginia. This Facility is the subject of VPDES Permit number VA0025194, which allows Blackstone to discharge treated wastewater into an unnamed tributary of Hurricane Branch in strict compliance with the terms, limitations, and requirements delineated in the Permit.
2. On August 1, 2000, the Department issued Blackstone a NOV, number W2000-04-P-1005, for effluent limit violations of Total Suspended Solids (“TSS”) in April 2000; Total Hardness in May 2000; Hydrogen Ion Concentration (“pH”) in June 2000; and failure to submit a Significant Discharger Survey due in December 1998.
3. Blackstone submitted the Significant Discharger Survey on July 31, 2000.
4. On April 23, 2001, the Department issued NOV number 01-002-PRO-003 for effluent limits violations of Chlorine (“Cl<sub>2</sub>”) in August and November 2000, and March 2001; Ammonia in January 2001; and TSS in March 2001.
5. Blackstone attributes the violations described in the two NOVs to power outages, lightning damage, equipment failures, and flow variations due to excessive rain fall.
6. Blackstone has taken corrective action to address a number of the violations, spending approximately \$29,000 repairing and replacing damaged and faulty equipment and installing

electrical backup systems.

7. On October 29, 2001, the Department issued NOV number NOV-01-10-SCRO-012 for effluent limit violations of Total Kjeldahl Nitrogen (“TKN”) in July and August 2001.
8. Blackstone attributes the violations to several factors including sewage discharged into manholes on Fort Pickett by a disposal company, power outages, and intra-plant increases from digester centrate, and an improperly reset nitrification tower pump.

#### **SECTION D: Agreement and Order**

Accordingly, the Board, by virtue of the authority granted in Va. Code §§ 62.1-44.15(8a) and (8d), orders Blackstone and Blackstone agrees:

1. To remedy the violations described above and bring the Facility into compliance with the regulations, Blackstone shall perform the actions described in Appendix A to this Order.
2. Blackstone shall pay a civil charge of \$840.00 dollars within 30 days of the effective date of the Order. The Payment shall note that it is being made pursuant to this Order, and shall note the Federal Identification Number for Blackstone. The Payment shall be made by check, certified check, money order, or cashier’s check payable to the “Treasurer of Virginia” and sent to:

Receipts Control  
Department of Environmental Quality  
Post Office Box 10150  
Richmond, Virginia 23240

#### **SECTION E: Administrative Provisions**

1. The Board may modify, rewrite, or amend the Order with the consent of Blackstone, for good cause shown by Blackstone, or on its own motion after notice and opportunity to be heard.
2. This Order only addresses and resolves those violations specifically identified herein. This Order shall not preclude the Board, or the Director, from taking any action authorized by law,

including but not limited to: (1) taking any action authorized by law regarding any additional, subsequent, or subsequently discovered violations; (2) seeking subsequent remediation of the Facility as may be authorized by law; or (3) taking subsequent action to enforce the terms of this Order. Nothing herein shall affect appropriate enforcement actions by other federal, state, or local regulatory authority, whether or not arising out of the same or similar facts.

3. For purposes of this Order and subsequent actions with respect to this order, Blackstone admits the jurisdictional allegations, factual findings, and conclusions of law contained herein.
4. Blackstone consents to venue in the Circuit Court of the City of Richmond for any civil action taken to enforce the terms of this Order.
5. Blackstone declares it has received fair and due process under the Administrative Process Act, Va. Code § 2.2-4000 *et seq.*, and the State Water Control Law, and it waives the right to any hearing or other administrative proceeding authorized or required by law or regulation, and judicial review of any issue of fact or law contained herein. Nothing herein shall be construed as a waiver of the right to any administrative proceeding for, or to judicial review of, any action taken by the Board to enforce this Order.
6. Failure by Blackstone to comply with any of the terms of this Order shall constitute a violation of an Order of the Board. Nothing herein shall waive the initiation of additional enforcement actions, or the issuance of additional orders, as appropriate by the Board or the Director as a result of such violations.
7. If any provision of this Order is found to be unenforceable for any reason, the remainder of the Order shall remain in full force and effect.
8. Blackstone shall be responsible for failure to comply with any of the terms and conditions of this Order unless compliance is made impossible by earthquake, flood, other acts of God, war, strike, or such other occurrence. Blackstone must show that such circumstances resulting in noncompliance were beyond its control and not due to a lack of good faith or diligence on its part. Blackstone shall notify the DEQ Regional Director in writing when circumstances are anticipated to occur, are occurring, or have occurred that may delay compliance or cause noncompliance with any requirement of the Order. Such notice shall set forth:

- a. the reasons for the delay or noncompliance;
- b. the projected duration of any such delay or noncompliance;
- c. the measures taken and to be taken to prevent or minimize such delay or noncompliance; and
- d. the timetable by which such measures will be implemented and the date full compliance will be achieved.

Failure to so notify the Regional Director within 24 hours of learning of any condition listed above, which Blackstone intends to assert will result in the impossibility of compliance, shall constitute a waiver of any claim to inability to comply with a requirement of this Order.

9. This Order is binding on the parties hereto, their successors in interest, designees, and assigns, jointly and severally.
10. This Order shall become effective upon execution by both the Director or his designee and Blackstone. Notwithstanding the foregoing, Blackstone agrees to be bound by any compliance date which precedes the effective date of this Order.
11. This Order shall continue in effect until:
  - a. Blackstone petitions the Regional Director to terminate the Order after it has completed all requirements of the Order. The Director's determination that Blackstone has satisfied all requirements of the Order is a "case decision" within the meaning of the Virginia Administrative Process Act; or
  - b. The Director or the Board may terminate this Order in his or its sole discretion upon 30 days written notice to Blackstone.

Termination of this Order, or of any obligation imposed in this Order, shall not operate to relieve Blackstone from its obligation to comply with any statute, regulation, permit condition, other order, certificate, certification, standard, or requirement otherwise applicable.

12. By its signature below, Blackstone voluntarily agrees to the issuance of this Order.

And it is so ORDERED this \_\_\_\_\_ day of \_\_\_\_\_, 2002

\_\_\_\_\_  
Robert G. Burnley, Director  
Department of Environmental Quality

The Town of Blackstone voluntarily agrees to the issuance of this Order.

Date: \_\_\_\_\_ By: \_\_\_\_\_  
J. Larry Palmore, Town Manager

Commonwealth of Virginia  
City/County of \_\_\_\_\_

The foregoing document was signed and acknowledged before me this \_\_\_\_\_ day of  
\_\_\_\_\_, 2001, by J. Larry Palmore, Town Manager, the Town of Blackstone.

\_\_\_\_\_  
Notary Public

My commission expires: \_\_\_\_\_.

(The remainder of this page is intentionally left blank.)

## **APPENDIX A**

**The Town of Blackstone shall:**

1. Within 260 days of the issuance of this Order complete construction of an Equalization Basin for the wastewater treatment plant.
2. Submit quarterly progress reports with the DMR, which shall be due on the 10<sup>th</sup> day of January, April, July, and October each year the Order is in effect, or until construction of the Equalization Basin is complete.
3. Henceforth comply with all Department and VPDES Permit reporting requirements.
4. Unless otherwise specified in this Order, or the Permit, all correspondence related to this Order shall be sent to:

Harry F. Waggoner  
Department of Environmental Quality  
South Central Regional Office  
7705 Timberlake Road  
Lynchburg, Virginia 24502